



S/N 10/027,441

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Stephen Quirk	Examiner:	Amy E. Pullman
Serial No.:	10/027,441	Group Art Unit:	1615
Filed:	December 20, 2001	Docket:	1443.024US1
Title:	TRIGGERED RELEASE OF MATERIALS FROM PROTEINOID MICROSPHERES		

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RESPONSE TO RESTRICTION REQUIREMENT

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant has reviewed the Restriction Requirement mailed September 30, 2003 and provisionally elects, with traverse, the claims of Group I (claims 1-15).

The Restriction Requirement is traversed on the basis that Restriction Requirements are optional in all cases. M.P.E.P. § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions. M.P.E.P. § 803.

It is respectfully submitted that the search and examination of the claims of Groups I and II can be made without serious burden on the Office. Claims 1-15 (Group I) are directed to a proteinoid microsphere comprising a mixture of amino acids that are thermally condensed and crosslinked with a crosslinker, as well as compositions and articles comprising such proteinoid microspheres. Claims 16-27 (Group II) are directed to a method of releasing a therapeutic agent from a proteinoid microsphere comprising contacting a reducing agent with a therapeutic agent encapsulated within a proteinoid microsphere comprising a mixture of amino acids that are thermally condensed and crosslinked with a crosslinker, as well as to a method of sustained release of a therapeutic agent into the bloodstream of a mammal comprising administering a therapeutic agent encapsulated within a proteinoid microsphere to a mammal, wherein the proteinoid microsphere comprises a mixture of amino acids that are thermally condensed and crosslinked with a crosslinker. Both both of Groups I and II are classified in search class 424. Given the close relationship between the subject matter of the claims in these two

groups Applicant submits that no additional serious burden results from the search and examination of all of claims 1-27.

Applicant also traverses the requirement for electing a species if Group II were elected. As provided by the MPEP, species may be related inventions and need not be subject to restriction. *See* MPEP § 806.04(b). In particular, where species are claimed under a common genus and are related, the question of restriction is determined by the practice applicable to election of species and the practice applicable to other types of restrictions. *See id.* Here, sustained release can be achieved for each method of claims 16-27. Moreover, each method involves use of a reducing potential. As described in the specification within Example 3 (page 25) sustained release from proteinoid microspheres can be achieved in serum without the need for added reducing agent, indicating that serum already has a low reduction potential. Accordingly, the two methods are both thought to involve a reducing agent and are therefore related. Applicant also respectfully reminds the Examiner that they are entitled to examination of a reasonable number of species, and that election of species is for the convenience of the Examiner in initiating the search.

Applicant respectfully requests that the Examiner reconsider whether restriction is proper in this case.

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The Examiner is invited to contact Applicant's Representatives at the below-listed telephone number if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

Respectfully submitted,

STEPHEN QUIRK PH.D.

By his representatives,

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Date

Oct 29, 2003

By

Robin A. Chadwick

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Reg. No. 36,477

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29 day of October 2003.

GIAN UPHUS

Gina Uphus